REMARKS

This Amendment is being filed in response to the Office Action mailed on March 16, 2009, which have been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3, 5-8 and 10-19 remain in this application, where claim 4 has been currently canceled without prejudice. Claims 1 and 8 are independent.

In the Office Action, claims 1-3, 5 , 8, 10, 14 and 18 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 7,058,852 (Sims III). Further, claims 1, 4-8 and 19 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,469,978 (Ohata) in view of U.S. Patent Application Publication No. 2002/0150009 (Tokumitsu). Claims 11-13, 15-17 and 18 are rejected under 35 U.S.C. §103(a) over Ohata or Sims III in view of U.S. Patent No. 6,654,904 (Andoh). Applicants respectfully traverse and submit that claims 1-3, 5-8 and 10-19 are patentable over Sims III, Ohata, Tokumitsu

and Andoh for at least the following reasons.

Sims III is directed to a method and system for providing defect management of a bulk data storage media, where logical addresses of media data blocks are continuously <u>slipped to omit</u> all media data blocks determined to be defective at the time of an initial media format.

Ohata is directed to a rewritable optical disk with spare area or defect management formatted with different group configurations without changing the firmware. As specifically recited in the Abstract, the size of the spare area or defect management is <u>specified at initialization</u>.

Tokumitsu is directed to an information recording medium which includes a user data area and a medium management information area and allows update of information. Information for identifying the allowable number of times of recording of information is previously recorded on the recording medium. Paragraph [0002] discloses that when a DVD-RAM drive detects a defective block at the recording area on the information recording medium during the recording operation, an alternative block is <u>assigned</u> and a defect management

table used for management of correspondence between the defective

block and alternative block is recorded on the medium.

Andoh is directed to a method and system to provide a defect

map structure where initially detected defective sectors are

individually registered in a primary defect map (PDM). Continuous

defective sectors which exist in the same track are registered in a

batch, by registering a first absolute block address of the series

of defective sectors, and defective sector length (number of

defective sectors) of the series of defective sectors.

It is respectfully submitted that Sims III, Ohata, Tokumitsu,

Andoh, and combination thereof, do not disclose or suggest the

present invention as recited in independent claim 1, and similarly

recited in independent claim 8 which, amongst other patentable

elements, recites (illustrative emphasis provided):

> an assignment unit for adapting the assignment
> information in dependence of a detected defect,
> detected during recording, by creating new defect
> management area having a starting physical address
> near the detected defect, wherein the new defect
> management area has a size including at least a first
> detected defect, a second detected defect and the
> physical addresses between the first and second
> detected defect.

Creating new defect management area having a starting physical address near the detected defect, where the new defect management area has a size including at least a first detected defect, a second detected defect and the physical addresses between the first and second detected defect, is nowhere disclosed or suggested in Sims III, Ohata, Tokumitsu and Andoh, alone or in combination. Rather, column 8, lines 29-36 of Ohata, noted in page 7 the Office Action, merely discloses that if a sector in the user area has a defect, a sector in the spare area is used instead, where the position of the defective sector and the spare area (used in place of the defective sector) are managed by a defect list in a defect management area.
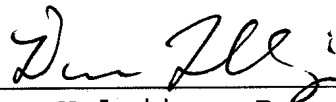
Further, column 9, lines 26-37 of Sims III, noted in page 3 the Office Action, merely discloses that, upon identifying a defective sector during primary formatting, where a sector 211 includes two blocks 211a, 211b shown in FIG 2, for example, then the logical address is slipped by the same unit as the blocks in a sector, namely slipped by two blocks. (See also column 9, lines 3-6.

Accordingly, it is respectfully requested that independent claims 1 and 8 be allowed. In addition, it is respectfully submitted that claims 2-3, 5-7 and 10-19 should also be allowed at least based on their dependence from independent claims 1 and 8 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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